

Message Text

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ORIGIN SS-25

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R 020111Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA

C O N F I D E N T I A L STATE 182972

EXDIS

E.O. 11652: GDS

TAGS: SENV;BR

SUBJECT: RESPONSE TO BRAZILIAN FOREIGN MINISTER'S

REF: STATE 165222

1. EMBASSY REQUESTED TO DELIVER FOLLOWING REPLY FROM SECRETARY TO FOREIGN MINISTER DA SILVEIRA'S LETTER REPORTED REF-TEL.

2. BEGIN TEXT. DEAR ANTONIO: I GREATLY APPRECIATE YOUR THOUGHTFUL LETTER CONCERNING THE INTERNATIONAL LAW COMMISSION'S STUDY OF NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES. I SHARE YOUR VIEW THAT THE FURTHER DEVELOPMENT OF LEGAL RULES WHICH WILL ACCOMMODATE PEACEFULLY THE INTERESTS OF COUNTRIES SHARING INTERNATIONAL WATERCOURSES IS A MATTER OF GREAT IMPORTANCE. IN MANY PLACES IN NORTH AMERICA, AS WELL AS IN THE REST OF THE WORLD, FRESH WATER IS A SCARCE AND PRECIOUS RESOURCE. THE WELFARE AND ASPIR-
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ATIONS OF MANY NATIONS MAY BE VITALLY AFFECTED BY THE LEGAL RULES WHICH ARE TO GOVERN THE APPORTIONMENT OF FRESH WATERS AMONG THEM.

3. THE VIEWS OF THE U.S. CONCERNING THESE MATTERS HAVE UNDERGONE SUBSTANTIAL CHANGES DURING THIS CENTURY. THE VIEW THAT A STATE MAY USE WATERS WITHIN ITS TERRITORY WITHOUT LIMITATION, EXPRESSED IN THE NOTED OPINION OF CONFIDENTIAL

ATTORNEY GENERAL HARMON IN 1895, NO LONGER REPRESENTS OUR PRACTICE, IF IT EVER DID. WHETHER THE HARMON DOCTRINE EVER FULLY REPRESENTED THE VIEW OF THE U.S. IS THE SUBJECT OF DEBATE AMONG LEGAL SCHOLARS; SUFFICE IT TO SAY THAT WE HAVE NOT REGARDED IT AS RELEVANT TO OUR RELATIONS FOR AT LEAST 35 YEARS.

4. INSTEAD, IN ITS DEALING WITH ITS NORTH AMERICAN NEIGHBORS, THE U.S. SEEKS TO REACH UNDERSTANDINGS WHICH ASSURE TO EACH COUNTRY A JUST AND EQUITABLE UTILIZATION OF SHARED WATER RESOURCES. SUCH UNDERSTANDINGS REQUIRE US TO TAKE INTO ACCOUNT ALL OF THE WATER USES AND ACTIVITIES IN EACH COUNTRY WHICH MAY AFFECT, OR BE AFFECTED BY, ACTIONS IN THE OTHER. FOR THIS REASON, WE VIEW THE CONCEPT OF THE INTERNATIONAL DRAINAGE BASIN -- RATHER THAN A SINGLE WATERCOURSE -- AS MOST IMPORTANT. THE VIEWS WE HAVE GIVEN TO THE I.L.C. REFLECT THIS.

5. IN PRACTICE, WE HAVE FOUND THAT CONSULTATIONS WITH OTHER STATES SHARING WATER RESOURCES WITH US AND POTENTIALLY AFFECTED BY OUR ACTIVITIES, FORM A NECESSARY BASIS FOR JUST ACCOMMODATIONS OF OUR INTERESTS WITH THEIRS. WE STRONGLY AGREE WITH YOU THAT SUCH CONSULTATIONS ARE NOT, AND CAN NEVER BECOME, A BARRIER TO THE USE OF WATER RESOURCES TO WHICH WE ARE ENTITLED. NEVERTHELESS, ALTHOUGH CONSULTATIONS MAY NOT ALWAYS PRODUCE AGREEMENT, THEY AID IN LIMITING DISAGREEMENTS AND IN ASSURING THAT SHARED RESOURCES ARE WISELY AND PRODUCTIVELY DEVELOPED. THIS HAS CHARACTERIZED THE NATURE OF OUR DISCUSSIONS WITH MEXICO ON THE SALINITY OF THE COLORADO RIVER.

6. I APPRECIATE THAT THESE VIEWS MAY NOT ACCORD IN ALL CONFIDENTIAL

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RESPECTS WITH YOUR OWN. NEVERTHELESS, I TRUST YOU WILL UNDERSTAND OUR HOPE THAT OUR VIEWS BE GIVEN CONSIDERATION IN THE WORK OF THE I.L.C., WORK WHICH MAY SOME DAY BEAR UPON OUR OWN RELATIONS WITH OUR NORTH AMERICAN NEIGHBORS.

WARM REGARDS, HENRY A KISSINGER INGERSOLL

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<< END OF DOCUMENT >>

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Margaret P. Grafeld
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